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APPENDIX — VOLUME II

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-775

THE CITY OF NEW ORLEANS AND
HONORABLE MOON LANDRIEU,
Appellants,

versus

NANCY DUKES, d/b/a LOUISIANA CONCESSIONS,
Appellee.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JURISDICTIONAL STATEMENT DOCKETED DEC. 21, 1974
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CHAPTER 46

PERMITS[1]

Section 46-1. Permits required for various callings or occasions; schedule of fees therefor.[2]

Every person who shall desire to use the public streets, sidewalks or public places or private places or business establishments for the conduct of any of the businesses or callings hereinafter set forth or to hold meetings or rallies or public entertainments in private or public halls or places shall first apply to and obtain from the Department of Finance a permit. Such permit shall in each instance state the occasion for which it is issued and the date upon which it will expire and shall be in addition to any other tax or license to which permittee may be liable. Such per-

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1 For charter provisions with respect to permits, including a definition of "permit" as there used, see Char., §§ 4-701 and 4-702. For provisions requiring a permit for engaging in various occupations or undertakings dealt with in the other chapters hereof see those chapters.

2 For licenses on other coin operated machines, see Chapter Coin Operated Machines.

mits, however are not valid within the Central Business District area bounded by the River on the East, Claiborne Avenue on the West, Esplanade Avenue on the North and Howard Avenue on the South, except as provided in Section 46-1.1 of this chapter. Such permits shall be paid for by the applicant at the time of issuance according to the following schedule:

(1) A. Definitions:

1. "Mardi Gras Season" is defined as those days and nights commencing eleven (11) days before Mardi Gras and continuing until midnight on Mardi Gras day.

2. "Parade Route" is defined as that area extending one (1) city block in either direction of the streets used by the various parades while the parade is in progress.

3. "Parade Time" is defined as that time commencing two (2) hours before the starting time of a parade and ending two (2) hours after the passing of a parade, but no vendor shall sell or display his wares within the Central Business District which is defined as the area bounded by the River, Esplanade Avenue, Claiborne Avenue and Howard Avenue,

prior to 6:00 p.m. on weekdays, except Mardi Gras Day. On weekends and on Mardi Gras Day when there is more than one parade on any calendar day the vendor must move two (2) hours after the end of the last parade for that calendar day.

4. "Vehicle" is defined as a conveyance which is licensed by the Motor Vehicle Division of the Louisiana State Department of Safety.

B. To sell the following items on city streets along the designated "parade route" during Mardi Gras Season:

1. For a fixed location:
   (a) To Sell
      (1) Sandwiches, cooked foods and drinks (other than alcoholic beverages) $50.00
      (2) Candy, nuts and confections 50.00
      (3) Novelties 50.00

   (b) There shall be a $50.00 deposit on each permit to guarantee payment of sales tax at the end of the Mardi Gras Season. This deposit will be forfeited thirty (30) days after Mardi Gras if

taxpayer has not filed his sales tax return. This provision shall not restrict the authority of the Director of Finance to assess and collect sales tax and use tax in accordance with Chapter 56 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(c) A specific location can be assigned but not guaranteed by the City.

(d) Vendors at fixed locations on public streets, may set up their vehicles during "parade time" only.

(e) When the use of a fixed location would interfere with a parade along a particular route or interfere with public safety, the City shall have the option to deny the use of such location for such period of time as may be necessary.

(f) Vendors selling from fixed locations shall comply with all provisions of Chapter 38 of Ordinance #828, M.C.S., Code of the City of New Orleans, relative to traffic regulations,

especially, but not exclusively with regard to distances from fire hydrants and intersections.

(g) The trailer, van and any appendant thereto from which a vendor sells shall not exceed thirty (30) feet in length or nine (9) feet in width. Vendors must sell and display from a "vehicle"; no stands, card tables or the like shall be allowed on public streets, sidewalks, alleys, parks, squares, neutral grounds or rights-of-way for the sale or display of goods.

(h) All vendors selling from fixed locations shall have the Mayoralty Permit as provided for in this section publicly displayed at his place of business and failure to do so shall constitute a violation of this chapter.

(i) No Mardi Gras Mayoralty Permits shall be issued for vendors from fixed locations on public streets, sidewalks, alleys, parks or squares in the Vieux Carre as defined in Sec-

tion 65-6 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(j) All applicants for Mardi Gras Mayoralty Permits to sell food and/or drinks on public or private property must show proof of compliance with all regulations and requirements of the City Board of Health and the Department of Fire, Fire Prevention Bureau before permit can be issued.

2. For Moving Locations:

(a) To Sell

(1) Sandwiches, cooked foods and drinks (other than alcoholic beverages)	$25.00
(2) Candy, nuts and confections	50.00
(3) Novelties	50.00

(b) There shall be a $25.00 deposit on each permit to guarantee payment of sales tax as provided in Section 56-41, of Ordinance #828, M.C.S., Code of the City of New Orleans, at the end of the Mardi Gras Season. This deposit will be forfeited 30 days after Mardi Gras, if

taxpayer has not filed his sales tax return. This provision shall not restrict the authority of the Director of Finance to assess and collect sales and use tax in accordance with Chapter 56 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(c) All moving vendors must keep moving except when making a sale. No stands, card tables or the like, except hand-carried displays shall be allowed on public streets, sidewalks, alleys, parks, squares, neutral grounds or rights-of-way for the sale or display of goods.

(d) For each permit issued one (1) Mardi Gras Mayoralty Badge with a corresponding number shall be purchased by the permittee from the Department of Finance, which badge must be publicly displayed on their person at all times and failure to do so shall constitute a violation of this Chapter.

(e) Mardi Gras Mayoralty Permits for moving locations

shall be invalid in the Vieux Carre as defined in Section 65-6 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(f) Mardi Gras Mayoralty Permits for moving locations shall only be valid during "parade time" along designated "parade routes".

(2) To sell novelties on the city streets other than during the Mardi Gras season.

Per sales outlet, for one year ....$ 25.00

(3) To sell candies, nuts and confections on foot or from push carts or other vehicles on city streets or public places other than during the Mardi Gras season.

Per sales outlet, per year .....$ 25.00

(4) To sell ice cream, ice cream bars and related confections from push carts or other vehicles on city streets or public places other than during the Mardi Gras season.

Per sales outlet, per year .....$ 25.00

(5) To sell hot tamales and/or hot dogs on foot or from push carts on city streets

or public places other than during the Mardi Gras season.

Per sales outlet, per year .....$ 25.00

(6) To peddle cooked food, cakes, pies, etc., other than during the Mardi Gras season.

Per sales outlet, per year .....$ 50.00

(7) To sell fruits and vegetables on foot or from push carts on city streets or public places.

Per sales outlet, per year .....$ 25.00

(8) To sell fruits and vegetables from animal-drawn or motor propelled vehicles.

Per vehicle, per year .....$ 50.00

(9) To sell home-manufactured articles or home-grown products on foot.

Per year .....$ 25.00

(10) To paint, exhibit or sell paintings and/or portraits or to exhibit or sell works of art on public property in immediate vicinity of Jackson Square.

Per year .....$ 40.00

(11) To sell razor blades, toilet articles, pencils, shoe laces, etc., on city streets or public places.

Per year .....$ 15.00

(12) To sell tickets to supper to be held in private homes.

Per event .....$ 15.00

(13) Demonstrations of food products or devices in public places or markets, etc.

Per engagement .....$ 25.00

(14) To distribute samples, canvass on city streets or from house to house.

(a) For crew manager, per year .....$ 25.00
(b) For each crew member, per year.... 15.00

(15) To advertise with music, on truck or on foot or in costume or for any other advertising stunt on public property.

(a) Per year $100.00
(b) Per month 15.00

(16) To take and sell photographs on the city streets or other public places where the parties photographed willingly pose for the picture and the picture is developed on the spot where taken and there delivered to the parties photographed.

Per year .....$ 25.00

(17) To take and sell photographs on city streets or in any other public places in any other manner than that described in the preceding paragraph.

Per year $250.00

(18) To operate a hand organ in the city streets.

Per year .....$ 15.00

(19) To conduct a sale of goods, wares or merchandise in issuance, bankruptcy, mortgage, insolvent assignees, receivers, trustees removal or closing out sale or sale of goods, wares and merchandise damaged by fire or otherwise in accordance with Section 51:31 to 51:41 of the Revised Statutes of Louisiana.

Per sale .....$ 25.00

(20) Weighing device, etc. on sidewalks or in public places.

Per nickel machine, per year..$ 25.00
Per penny machine, per year.... 15.00

(21) Exhibitions, expositions, etc., educational or otherwise, when admission is charged or offerings solicited or accepted.

Per month .....$ 25.00

(22) For a circus, a carnival or any other activity wherein mechanical devices for amusement other than coin-operated are used on a temporary basis.

Per year in addition to license .$100.00

(23) To operate games of sport or skill when admission is charged or a fee collected in any manner, including putt-putt games, shooting galleries, archery, etc.

Per year $100.00

(24) To conduct sport events when admission is charged or a fee collected in any manner and when an annual license is not paid to the city:

(a) Admission not more than 75¢ per event .....$ 15.00

(b) Admission more than 75¢ per event 25.00

(25) For amateur and professional prize-fights or boxing and wrestling contests:

(a) Admission not more than 75¢ per event .....$ 15.00

(b) Admission more than 75¢ per event 25.00

(26) For entertainment (other than fairs given by a church for the benefit of the church or by a school for the benefit of the school) dance reviews, plays, festivals, bazaars, etc., with or without music, when admission is charged or when no admission is charged, but subscription fees or contributions are collected.

(a) Admission not more than 75¢ or by invitation

Per event .....$ 15.00

(b) Admission more than 75¢ per event 25.00

(27) For Carnival Balls .....$ 25.00

(28) For philharmonic or symphonic recitals, operas or other entertainments of like nature when admission is charged or a fee or subscription is collected in any manner.

(a) Admission not more than 75¢ or by invitation

Per event .....$ 15.00

(b) Admission more than 75¢ 25.00

(29) For orchestras in restaurants or business establishments for purposes of entertainment or dancing when no admission is charged.

Per year .....$ 50.00

(30) For music other than an orchestra for entertainment purposes or dancing when no admission is charged or fee exacted.

Per year .....$ 25.00

(31) For music for entertainment purposes or dancing where admission is charged or fee exacted in any manner.

Per year $100.00

(32) For dancing when admission is charged:

(a) Admission not more than 75¢ per event ..... $ 15.00

(b) Admission not more than $1.99 per event ..... $ 25.00

(c) Admission $2.00 or more per event. $ 50.00

(33) For a private dance in a public hall.

Per event ..... $ 15.00

(34) To give a rummage sale.

Per event ..... $ 15.00

(35) For any transient vendor, canvasser, solicitor or merchant engaged in the sale at retail of goods, wares and merchandise and who, for the purpose of carrying on such business hires, leases, or occupies, either in whole or in part, a room, or some other temporary quarter a structure for the exhibition and sale of such goods, wares and merchandise and with the intention to close out or discontinue such business within a period of one year from the date of commencement thereof.

Per location, per year $250.00

(36) To sell flowers on the city sidewalks or streets.

Per sales outlet, per year ..... $ 50.00

(37)—(40) Reserved.

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 73-3979

NANCY DUKES, d/b/a LOUISIANA CONCESSIONS
Plaintiff-Appellant

versus

CITY OF NEW ORLEANS and
HONORABLE MOON LANDRIEU
Defendants-Appellees

Appeal from the United States District Court for the Eastern District of Louisiana,
Hon. Jack M. Gordon, District Judge, Presiding

BRIEF FOR APPELLEES

(Certificate required by Fifth Circuit Local Rule 13(a), index and authorities omitted in printing.)

* * * *

STATEMENT OF THE CASE

Plaintiff Nancy Dukes brought this action against the City of New Orleans and the Honorable Moon Lan-

drieu alleging a denial of equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution.

Dukes is in the business of selling food, drinks, confections, and novelties from push-carts throughout the City of New Orleans. On January 17, 1972, one of Duke's employees was arrested for violating New Orleans City Ordinance 828 M.C.S. 46-1 and 46-1.1. As a result of this arrest, Dukes initiated a Civil Suit on August 1, 1972, seeking declaratory and injunctive relief against defendants alleging that 46-1 and 46-1.1 were arbitrary, unreasonable and denied her due process and equal protection as guaranteed by the constitution.

As there was no factual dispute to be resolved cross motions for summary judgment were filed by both parties and after argument Judge Gordon granted defendant's motion, denied plaintiff's motion and dismissed the suit.

From that judgment plaintiff has appealed and, after changing lawyers some four times, now apparently claims that all she ever sold or wanted to sell in the Vieux Carre was hot dogs which is in direct contravention of her sworn affidavit filed in support of her motion for summary judgment wherein she swears under oath that her:

> ". . . business consists of selling *drinks, confections* and *novelties* from hand-pushed carts on the public streets, sidewalks and public

> places of the City of New Orleans, including the Vieux Carre . . ."

ARGUMENT

I.

ARE 828 MCS 46-1 AND 46-1.1 UNCONSTITUTIONAL?

Article XIV Section 22 of the Constitution of the State of Louisiana provides, in pertinent part:

> "§22. New Orleans; election of officers; form of government; powers; *home rule charters*
>
> Section 22. The electors of the City of New Orleans and of any political corporation which may be established within the territory now, or which may hereafter be embraced within the corporate limits of said city, shall have the right to choose their public officers, and the form of government of said city.
>
> Subject to the limitations elsewhere contained in this Constitution, *the City of New Orleans is hereby declared to have a home rule charter.*
>
> The City of New Orleans, in addition to the powers expressly conferred upon it by Act 159 or 1912, as amended through the Regular Legislature Session of 1950, shall have the right and authority to adopt and enforce local police, sanitary and similar *regulations* and *to do and perform all of the acts pertaining to its*

local affairs, property and government, which are necessary or proper in the legitimate exercise of its corporate powers and municipal functions."

Chapter 8 of Article V of the Home Rule Charter, entitled "The Vieux Carre Commission" states the powers of the City Council in maintaining the charm, character and economic viability of the Vieux Carre as follows:

"Section 5-803 Enforcement. The Council shall by ordinance or otherwise carry into effect provisions of the Constitution relative to the Vieux Carre Section and shall provide for the enforcement of such provisions by appropriate legal proceedings including resort to injunctive process."

The question now becomes whether or not 828 MCS 46-1 and 46-1.1 are able to withstand plaintiff's attack on their constitutionality as a violation of the "Due Process" and "Equal Protection" clauses of the Fourteenth Amendment to the United States Constitution.

A. *Are All Types Of Discrimination Prevented By The Due Process And Equal Protection Clauses?*

In the well known case of *Oregon v. Mitchell*, 400 U.S. 112, 125, 91 S. Ct. 260, 265 (1970) the United States Supreme Court said of discriminatory laws:

"It cannot be successfully argued that the Fourteenth Amendment was intended to strip

the States of their power, carefully preserved in the original Constitution, to govern themselves. The Fourteenth Amendment was surely not intended to make every discrimination between groups or people a constitutional denial of equal protection."

This is an indication that the Fourteenth Amendment is not to be interpreted as an overall prohibition against any and all types of discriminatory classification or treatment under state law. In *Lehnhouser v. Lake Shore Auto Parts Co.*, 93 S. Ct. 1001 (1973) the Court stated that the:

"Equal protection clause does not mean that a state may not draw lines that treat one class of individuals or entities different from the others, and the test is whether the difference in treatment is an invidious discrimination."

Accord: *League of Academic Women v. Regents of University of California*, 343 F. Supp. 636 (N.D. Cal. 1973) where it was held that:

"It is a far different thing to say that a statute extends a right to one group while denying it to another, than it is to say that a statute provides the same rights to everyone, but does not extend an additional right to any of them . . . The Fourteenth Amendment is not a mandate that every statute must be read to outlaw all forms of discrimination."

These cases represent only a small sample of a long line of jurisprudence upholding differences in statutory classification. They exemplify the fact that society today still provides for and maintains certain forms of necessary discrimination. By these statutory classifications the state is attempting to achieve and maintain the general welfare of its citizens. Society's interests are weighed against the rights of particular individuals. There exists a compelling societal interest in these types of cases that predominates over individual rights and privileges.

This is precisely the issue involved in the case at bar. The interests of the City of New Orleans and the State of Louisiana are vitally affected as regards to that section of the City known as the Vieux Carre. The economic welfare of the City of New Orleans rests on this specially designated area. It is the heart of the City's tourist industry. The incalculable value of this tourist trade prompted the City Council to adopt ordinances to preserve the integrity and to insure the economic viability of the area in a way most conducive to both tourist and citizen alike. This then is the compelling interest of the city which necessitated the enactment of the ordinance in question. No tourist or citizen appreciates peddlers or hawkers interfering with their rights to observe and enjoy the charm and beauty of the New Orleans Vieux Carre. Equal protection does not require that statutes never distinguish between citizens but only that distinctions that are made not be arbitrary or invidious.

In perhaps the landmark case in this area our Supreme Court held:

> "The Court has held that the Fourteenth Amendment permits the States a wide scope of discertion in enacting laws which affect some groups of citizens differently than others. The constitutional safeguard is offended only if the classification rests on ground wholly irrelevant to the State's objective ... *A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." McGowan vs. Maryland,* 366 U.S. 420, 81 S. Ct. 1101 (1961).

We reiterate the fact that the City of New Orleans has a valid compelling interest in protecting and preserving the Vieux Carre both as a valuable and productive tourist attraction as well as a beautiful and natural respite for its citizens to enjoy. This protection and preservation is impeded by the indiscriminate allowance of peddlers and hawkers to confront tourists and citizens. The fact that some peddlers are allowed to peddle and not the plaintiff in this action only tends to demonstrate the City Council's interest in keeping the Vieux Carre the tourist attraction it has always been. The Council sought to allow only those peddlers to remain who have over a long period of time become a *part* of the unique charm and beauty that is characteristic of the Vieux Carre.

In the recent case of *Frontiers v. Richardson,* 411 U.S. 677, 93 S. Ct. 1764 (1973) the Court flatly stated:

> "Under 'traditional' equal protection analysis, a legislative classification must be sustained unless it is 'patently arbitrary' and bears no

rational relationship to a legitimate governmental interest."

Accord: *Jefferson v. Hackney*, 406 U.S. 535, 546, 92 S. Ct. 1724, 1731 (1972); *Richardson v. Belcher*, 404 U.S. 78, 81, 92 S. Ct. 254, 257 (1971); *Fleming v. Nestor*, 363 U.S. 603, 611, 80 S. Ct. 1367, 1372 (1960); *McGowan v. Maryland*, supra; *Dandridge v. Williams*, 397 U.S. 471, 485, 90 S. Ct. 1153, 1161 (1970); *McDonald v. Board of Election Com'rs of Chicago*, 394 U.S. 802, 89 S. Ct. 1404 (1969); *U.S. Department of Agriculture v. Moreno*, 93 S. Ct. 2821 (1973).

In the *McDonald* case cited supra and also in the case of *Reed v. Reed*, 404 U.S. 71, 92 S. Ct. 251 (1971) the Supreme Court again emphasized the fact that it did allow certain discriminatory statutory law:

"The Equal protection clause of the Fourteenth Amendment does not deny to states the power to treat different classes of persons in different ways; the clause does, however, deny the states the power to legislate that different treatment be accorded to persons places by statute into different classes on basis of criteria wholly unrelated to the objective of that statute."

See also: *Eisenstadt v. Baird*, 405 U.S. 438, 92 S. Ct. 1029 (1972).

The court went on in *Reed* to say that:

"In order not to violate the equal protection clause a statutory classification must be

reasonable, not arbitrary, and must rest on some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike."

Applying these standards to the issue at bar defendants show that the ordinance in question is not violative of constitutional mandates in that it is patently reasonable and not arbitrary since its exclusion of certain peddlers is based on fair criteria that attempts to maintain the traditional atmosphere of the Vieux Carre which is so vitally necessary for its economic viability and the benefits derived by all citizens of New Orleans therefrom. This clearly is a compelling and valid objective.

See: *Turner v. Fouche*, 396 U.S. 346, 90 S. Ct. 532 (1970) where it was held that:

"The traditional test for denial of equal protection is whether the challenged classification rests on grounds wholly irrelevant to the achievement of valid state objectives."

and: *Police Department of City of Chicago v. Mosley*, 408 U.S. 92, 92 S. Ct. 2286 (1972) in which the court succinctly stated:

"Crucial in equal protection cases is whether there is an appropriate governmental interest suitably furthered by the differential treatment"

It is patently obvious that the economic viability of an area of a city is a valid and compelling purpose that should merit the government's protection through legislation; and, if this area of the city also is vitally important in maintaining the overall economic well-being of the entire city, as is the Vieux Carre, then the interest in closely legislating and protecting the viability of the area is even more compelling. It is only invidious, unnecessary, and totally arbitrary classifications and treatment that the spirit and the letter of the Fourteenth Amendment prohibit. A classification or a statute having some reasonable basis does not offend the Constitution merely because it is not made with mathematical nicety, or the practice results in some inequality. The city should not be caused to lose its entire remedial scheme merely because it failed to cover every peddler at one time. It has been held that:

> "If the classification . . . is shown to have a substantial relationship to a lawful objective and is not void for other reasons, such as overbreadth, it will be upheld . . ." *Boroas v. Village of Belle Terre*, 476 F.2d 806 (2nd Cir. 1973)

Accord: *Godwin v. Patterson*, 363 F. Supp. 238 (M.D. Ala. N.D., 1973).

As the Supreme Court stated in *Norvell v. State of Illinois*, 373 U.S. 420, 83 S. Ct. 1366 (1963):

> "Exact equality is no prerequisite of equal protection of the laws within the meaning of

> the Fourteenth Amendment . . . *The rough accommodations made by government do not violate the equal protection clause unless the lines drawn are hostile and invidious.*"

and in *Salyer Land Co. v. Tulare Lake Basin Water Storage District*, 93 S. Ct. 1224 (1973):

> "The equal protection clause does not make every minor difference in the application of laws to different groups a violation of our Constitution."

B. *Was The Fourteenth Amendment Plaintiff's Economic Interests?*

The United States Supreme Court in the case of *Weber v. Aetna Casualty and Sur. Co.*, 406 U.S. 164, 92 S. Ct. 1400 (1972) stated that:

> "The essential inquiry . . . [in determining the validity of a state statute under the equal protection clause] . . . is a dual one: What legitimate state interest does the classification promote? What fundamental personal rights might the classification endanger?"

Also in the case of *Kramer v. Union Free School District No. 15*, 395 U.S. 621, 89 S. Ct. 1886 (1969), the Supreme Court held:

> "In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind

> the law, the interests which the State claims to be protecting, and the interests of those who are disadvantaged by the classification."

Accord: *Williams v. Rhodes*, 393 U.S. 23, 30, 89 S. Ct. 5, 10 (1968).

The case at bar necessarily involves a weighing process concerning the interests of the City of New Orleans and those of the plaintiff, Nancy Dukes. As we have previously shown, the ordinance in question is attempting to protect the charm, beauty and tradition that are so vitally necessary for the economic productivity of an entire area of the City as well as that of the City itself. To this end the City has a valid and compelling interest in preventing the enjoyment of this area by tourists and citizens alike from being hindered and lessened by the intervention of innumerable peddlers and hawkers physically soliciting and bothering them so as to lessen their enjoyment of the Vieux Carre. Plaintiff is attempting to protect an alleged right to sell her goods in the Vieux Carre from interference by the City. It is most vehemently argued that while plaintiff is free to sell her wares anywhere else in the entire City, the prevention of their sales in the Vieux Carre does not endanger or invade any fundamental personal right possessed by the Plaintiff. Rather, her right to sell food, soft drinks and confections in the Vieux Carre must be balanced against the City's compelling interest in preserving this area for it's very economic well-being; for if both citizens and tourists alike are bothered to the extent that they cease to frequent the Vieux Carre then the economic stability of the entire city will be in severe jeopardy.

In the case of *Levy v. Louisiana*, 391 U.S. 68, 88 S. Ct. 1509 (1968), the Supreme Court held that:

> "In applying the equal protection clause to social and *economic* legislation, we give great latitude to the legislature in making classifications."

And even more succinctly in *Palmer v. Thompson*, 403 U.S. 217, 91 S. Ct. 1940 (1969) the Court held:

> "The right to equal protection does not promise or guarantee economic or financial equality."

Likewise in the case of *San Antonio Independent School District v. Rodriquez*, 411 U.S. 1, 93 S. Ct. 1278 (1973) the Court said:

> "... at least where wealth is involved the Equal Protection Clause does not require absolute equality or precisely equal advantages."

In the case of *In v. Hoover*, 447 F.2d 195 (5th Cir. 1971) a Louisiana statute affording preferential treatment of sellers of goods sold in the state over sellers of goods sold outside the state was held not so unreasonable and arbitrary as to be invidiously discriminating and violative of the equal protection clause.

These cases lend credence to the assertion that the spirit of the Fourteenth Amendment is designed to protect the more fundamental and personal rights

from invidious discrimination or interference by state or municipal statutory law.

It is patently obvious that merely because an individual may be at some economic disadvantage this does not automatically make him the victim of an arbitrary, unreasonable and invidious discrimination which is violative of the equal protection clause, particularly where the state demonstrates a necessary and compelling interest necessitating the legislation.

One final point mentioned in *McGowan*, supra, is that the equal protection clause relates to equality between *persons* as such, rather than between areas and therefore territorial uniformity is not a constitutional prerequisite within the ambit of the equal protection clause of the Fourteenth Amendment.

It is respectfully submitted that this is precisely the point in the instant matter for all Dukes is asserting is that she cannot go into the Vieux Carre and sell her food, soft-drinks and confections from push-carts while she *can* ply her trade in the rest of the city. This is no equal protection argument at all particularly in view of *McGowan* and the fact that she is advancing a territorial argument and *not* a personal argument and particularly in view of the fact that in her brief, which counsel frankly finds hard to decipher, she is apparently now seeking only to sell hot dogs and therefore is no longer asserting and has abandoned her argument that there is an inequality between her and the *persons* who validly come under 828 MCS 46-1 and 46-1.1.

CONCLUSION

In summary, what this honorable court is faced with is a lawsuit brought by plaintiff challenging the constitutionality of a municipal ordinance which allows only certain vendors to peddle their goods within a particular area in the City of New Orleans. It is submitted by the defendants that the ordinance in question is constitutional and not violative of the due process and equal protection clauses of the United States Constitution in that it promotes a compelling state and local interest and that it does not invidiously discriminate against the plaintiff in this action. Further defendants maintain that the Fourteenth Amendment is not a blanket prohibition against every type of statutory discrimination, but that it is concerned more with the deprivation of the more basic and fundamental personal, human rights. When the City's interests are compared with those of plaintiff it becomes blatantly obvious that there is a compelling need to uphold the constitutionality of the ordinance in question. Defendants maintain that plaintiff is not deprived of her right to make a living or any other personal right, but only that plaintiff should not be allowed to endanger the economic viability of an important and vital area of the City.

Therefore, in view of all the foregoing, particularly the jurisprudential interpretation of the meaning of due process and equal protection as applied to the facts of this case, it is respectfully submitted that the summary judgment granted by the lower court must be affirmed.

Respectfully submitted,

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CERTIFICATE

I certify that a copy of the foregoing brief has been served upon opposing counsel of record by placing the same, properly addressed, in the United States Mail, postage prepaid, this 23rd day of May, 1974.

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Excerpts from Comprehensive Study Plan and Program For The Vieux Carre Under a Demonstration Grant From Department of Housing and Urban Development

Occupation: In concert with the other population changes, the number of people employed in the professions nearly doubled between 1960 and 1965. The number of managers, proprietors, and clerks residing in the Vieux Carre also increased. This growth partially reflects the increased number of small business establishments in the Quarter. The employment increase in these two categories totaled approximately 1,800 employees for the 1960 and 1965 period.

Household Income: Household income has risen sharply since 1950, from a median income of about $1,800 to a 1965 level of $5,200. The number of households with incomes below $2,000 decreased from approximately 2,200 to 825 during the 1950-1965 period, while households with incomes over $10,000 increased from approximately 90 to 700 during the period.

Household Tenure: The majority of households in the Vieux Carre are renters, 82.3 percent. However, the number of owner occupants more than tripled from 1960 to 1965, bringing the number to approximately 860. All of these changes in social characteristics evident in the 1960 to 1965 period can be expected to continue in coming years due to 1) the trend of large families and older persons to leave the Quarter, 2) continued rehabilitation resulting in increased dwelling units, and 3) a high demand for housing by single persons and couples. Forecasts of the housing market in-

dicate a demand for about 2,300 new dwelling units within the Vieux Carre by 1985. If these demands are fully accommodated, a total of approximately 12,900 people, almost 4,100 more than the present population, will be residing in the Quarter in 1985.

The Vieux Carre's population mix has changed from period to period. The coming two decades promise to be another time of great change, in terms of population characteristics and overall size. Public policy should be based on a recognition that a diversity of groups have lived together peacefully in the Vieux Carre for many years and have contributed jointly in creating what is a remarkably rich cultural heritage.

Economic Trends

The Vieux Carre plays a special and important role in the economy of New Orleans. In 1965 approximately 70 percent of the 1.8 million persons visiting New Orleans were influenced by the French Quarter in their decision to come to the city. These visitors spent an estimated $170 million in New Orleans during the course of their stay.

The Quarter's tourist-oriented economy is centered around transient accommodations, eating and drinking establishments, antique shops and other small specialty stores. Economic changes during the last 20 years have contributed to an enlivened Vieux Carre. Strong development pressures for new construction and expanded economic activities foreshadow further change in the character of the Quarter. One index of the likely magnitude of this change is the forecast of

approximately three million visitors coming to New Orleans by 1985.

Because of the strong impact which future growth will have on the Quarter, it is important to understand the Quarter's present economic characteristics and future development potentials. Economic findings are discussed on the following pages in terms of 1) Economic Profile of the Vieux Carre, 2) Real Estate Trends, and 3) Development Potentials.

ECONOMIC PROFILE OF THE VIEUX CARRE

The special character of the Vieux Carre economy is shaped by the diverse elements constituting its market support, the limitations placed on development by the Vieux Carre Ordinance, the economic activities remaining from prior economic eras, and the particular role of the Quarter in the metropolitan economy.

Support for Vieux Carre economic activities comes from local residents, visitors, and the metropolitan market. Historic district controls limit greatly the scope and scale of possible new construction. The port-oriented warehouses, railroad facilities, and industrial and heavy commercial activities, holdovers from a past era, utilize a great deal of Vieux Carre land and have characteristics at variance with the rest of the uses in the Quarter.

The metropolitan economy is strong and diverse. Metropolitan New Orleans, with a population of over one million persons, is one of the major commercial centers in the south. It is a regional center of trade,

services, and finance, and a major seaport ranking second to New York in dollar volume of goods exported. In response to New Orleans' economic growth over the past decade, investors have added substantial amounts of new housing, office and commercial space, as well as transient accommodations to the city's supply.

A significant portion of this growth has occurred in the Vieux Carre.[11] An economic profile of the historic district's economy dramatizes the important and distinct role which the Quarter plays in the metropolitan economy.

TOURISTS AND TRANSIENT ACCOMMODATIONS

The historic district makes its greatest contribution to the economy of the metropolitan area by serving as a principal attraction to persons visiting New Orleans. The Vieux Carre offers an authentic historic environment with specialty shops, restaurants, and lively night-time entertainment. The well-publicized attractions of the Quarter make it the logical location for a great proportion of the city's visitor services.

The concentration of hotel and motel rooms in the Quarter is illustrative of its drawing power. The area currently has an inventory of nearly 2,000 first-class rooms. This total represents 22 percent of the city's total and 35 percent of all hotel and motel accommodations in the Central Business District. Another facility containing 500 rooms was under construction at the writing of this report. Even more significant, however, is the fact that 75 percent of the Vieux Carre inventory has been constructed since 1959.

During the past decade, a substantial amount of retail and residential investment has taken place in the Vieux Carre. But the greatest overall impact has resulted from the construction of new hotels and motels. These new facilities have altered the basic economic character of the Quarter more than any other single factor.

Vieux Carre hotels and motels realized almost $8,000,000 in sales compared to approximately $21,000,000 and $31,000,000 in sales transacted by central business district and city-wide transient accommodations respectively. These figures significantly understate the Vieux Carre's relative position because they predate the construction of 65 rooms now in service in the Quarter.

The impact of the hotels and motels goes far beyond the sales information. Their most important contribution to the Vieux Carre economy is the large supply of potential customers housed in close proximity to the Quarter's retail establishments. Of the estimated 1.8 million persons visiting New Orleans in 1965, about 300,000 stayed in Vieux Carre accommodations. Each of these visitors remained an average of 3½ days. During this time, each person spent approximately $35 for lodging, $65 for meals, $10 for entertainment, and $20 for shopping and miscellaneous items, a total of $100 per person per visit. Consequently, persons staying in Quarter hotels and motels accounted for approximately $30,000,000 in sales, most of which was spent within the Vieux Carre itself.

Before the Vieux Carre hotel and motel building boom most visitors residing in the Central Area stayed in facilities on the upriver side of Canal Street. Although these visitors spent much of their sight-seeing, shopping, and entertainment time in the Vieux Carre, their activities were generally confined to the several blocks nearest Canal Street. The addition of hundreds of hotel and motel rooms in the heart of the Quarter has promoted significant pedestrian traffic in areas which were not previously frequented by many visitors.

For instance, the location of Al Hirt's and Pete Fountain's night clubs in the middle of the Quarter on Bourbon Street is a major departure from the older pattern of cabarets concentrated closer to Canal Street.

An inevitable effect of new hotel and motel construction on the Vieux Carre economy has been the increased value of real estate. Rising real estate values from this construction and other development reflect the increasing potential for new or upgraded uses, especially commercial enterprises, within the Quarter. This has fostered the rehabilitation of many deteriorated properties. Often residential properties have been rehabilitated and converted to tourist uses.

HOUSING

The character of housing in the Vieux Carre has changed very little over the past century. However, the social character of the Quarter's residents has changed with altered economic conditions. Today the population is typically represented by young and middle-aged persons in the middle-income group. Their interest in living in the Quarter is related to the

Quarter's central location and the special character of its environment.

There were 4,848 households living in the Vieux Carre in 1965. The average household size was 1.8 persons, considerably smaller than the city-wide average. Quarter residences occupied approximately 30 percent of the land and 55 percent of the buildings within the historic district. Most residential structures are occupied by more than one household. Residences and shops are frequently located in the same structures.

The type of housing in the Vieux Carre is still varied, but strong market demands in recent years have resulted in the creation of a large number of small, high-priced units. Many residential structures have been rehabilitated to comprise an increased number of units, and some nonresidential buildings have been converted to residential use. The consequence of this rehabilitation activity has often been the displacement of low-income families. The new occupants have typically been young middle-income persons or married couples who can afford the higher costs of living in Quarter dwellings. The trend toward smaller, high-priced town house and apartment units is expected to continue because of the increasing number of persons in the New Orleans area desiring and able to live in the Vieux Carre.

The mixed pattern of land uses in the historic district has not altered the area's status as a highly attractive place for in-town living. The Quarter is close to the city's employment and entertainment centers and many small business establishments exist to cater to the needs of local residents.

OFFICE SPACE

No significant quantity of general occupancy office space is currently available in the historic district for lease to interested tenants. However, there is a substantial amount of government office space in the Custom House and the Louisiana Wild Life and Fisheries Commission Building.

Existing Vieux Carre office space is primarily in small professional and service offices such as finance, insurance, legal, real estate, and personal service offices located on the ground floors of buildings in the commercial sections of the Quarter. In 1965 office space totaled approximately 200,000 square feet.

RETAILING

Retailing is the single most important sector of the historic district's economy. Retail establishments employ nearly 3,400 people and account for over 700,000 square feet of floor space. Of this amount, nearly 85 percent is ground floor area or 30 percent of all ground floor space in the Quarter. In 1963 (the most recent year for which comparable figures are available) over $24 million in retail sales were transacted in the historic district. Recent sales tax data indicate a strong upward trend in sales.

Retail uses are located in one of two significantly different areas. Intensive retail uses and automobile sales and services are located in a block-wide strip along Canal Street and North Rampart Street. These activities seldom extend into the cross streets of the Vieux Carre. The visitor-oriented shops, bars, and restaurants are concentrated in the tourist section along Bourbon, Royal, and Chartres streets from Iberville to Orleans.

The following table indicates the major role which the Quarter plays in several categories of metropolitan retail trade activity.

TABLE 7. *RETAIL SALES, VIEUX CARRE AND OTHER SELECTED AREAS, 1963*

	Vieux Carre	Vieux Carre as Percent of CBD	CBD	New Orleans City	New Orleans SMSA
	($000)		($000)	($000)	($000)
Shoppers Goods					
General Merchandise-Apparel-Furniture	2,654	2	158,766	236,277	302,412
Other Shoppers Goods	5,424	—	*	21,618	24,518
Total Shoppers Goods	8,078	—	*	257,895	326,930
Convenience Goods					
Restaurants, Bars, and Nightclubs	12,805	45	28,455	78,050	103,009
Food and Drug Stores	3,261	30	10,778	204,733	330,352
Total Convenience Goods	16,066	41	39,233	282,783	433,361
SELECTED RETAIL TOTAL	24,144	—	*	540,678	760,291

* Data not available.

Note: Vieux Carre here defined as the legal limits of the historic district. The boundaries of the CBD (Central Business District) are coterminous with those used in the 1963 Census of Business. The Standard Metropolitan Statistical Area (SMSA) includes Orleans, Jefferson and St. Bernard parishes.

Source: New Orleans Bureau of Revenue; U.S. Department of Commerce, 1963 Census of Business.

General Merchandise-Apparel-Furniture: The historic district is not an important location for department stores and other major retail functions which comprise this category. These outlets are largely concentrated on Canal Street. Together the combined complex represents an effective retailing system: Canal Street stores provide for the major shopping needs of the metropolitan population while nearby Quarter shops provide for more specialized shopping.

Other Shoppers Goods: A large number of New Orleans' many antique shops, gift stores, art galleries, and other specialty shops are concentrated in the historic district. This concentration in certain sales categories is documented by 1964 *New Orleans City Directory* information which indicates that 50 of the 76 antique establishments in the city were then located in the historic district as were 29 of the 54 gift shops and all of the art galleries. These establishments are to be found geographically concentrated within the Vieux Carre as well. The tourist section of the Quarter accounts for approximately 90 percent of all "other shoppers-goods" sales transacted within the historic district. "Other shoppers-goods" sales in the Quarter during 1963 represented nearly 25 percent of the city's total.

Restaurants, Bars and Nightclubs: Restaurants, bars, and nightclubs have made the Quarter the entertainment center of the South and one of the most famous in the country. Approximately 45 percent of CBD eating and drinking sales are currently transacted in the Vieux Carre. This proportion amounted to

approximately $13 million in 1963, or almost 55 percent of total retail sales for the Quarter. Of the $13 million total, approximately 63 percent was related to restaurant business.

Market support for the restaurants comes primarily from visitors who account for an estimated two-thirds of all such sales. Metropolitan area residents and Vieux Carre residents account for the remaining 30 and 3 percent respectively. Bars and nightclubs are even more dependent on visitors for their support. Visitors provide 83 percent of their business. Although almost all of the establishments in this sales category are located in the tourist section, several small restaurants and bars serving local residents are to be found elsewhere in the Quarter.

Food and Drug Stores: Food and drug store operations in the Vieux Carre are of limited economic importance. They accounted for nearly 15 percent of all Quarter retailing in 1963. This figure, which comprised about 30 percent of the CBD total, represented, however, only about 1 percent of the city total. The characteristic Vieux Carre drug store or grocery store is of the "streetcorner" type. For reasons of convenience and variety of goods, a number of Vieux Carre residents shop in larger stores outside the Quarter.

INDUSTRIAL ACTIVITIES

A large number and variety of industrial firms are located in the Quarter. The single most important industrial operation is the Jackson Brewing Company which occupies a number of buildings in the upper

Decatur Street area. Other significant operations are the wholesale food distribution complex in the lower Decatur Street area, the warehouses and related activities also in the upper Decatur Street area, and the wharves and railroads along the riverfront.

The 55-acre riverfront area is bounded by Port of New Orleans wharves along the Mississippi River except between St. Peter and Ursuline streets. The wharf section includes about 17 acres and constitutes approximately 5 percent of the total lineal frontage of wharf facilities comprising the Port of New Orleans. A number of railroad tracks belonging to the New Orleans Public Belt, Louisville and Nashville, and Southern Pacific railroads occupy a 24-acre band of land adjacent to the wharves. The Jackson Brewing Company, a New Orleans Public Service Substation, and several warehouse buildings occupy the remainder of the area.

Vieux Carre wholesaling establishments transact millions of dollars of business every year. However, despite the large amount of business conducted by these firms, their total sales activity in 1963 amounted to less than 1 percent of the city's total.

Industrial employment comprises almost one-third of all Vieux Carre employment. Of approximately 3,000 industrial employees in 1964 almost 45 percent were engaged in manufacturing activities. The Jackson Brewing Company employs a majority in this category. There are also many small manufacturing firms which employ relatively few persons. The categories of wholesaling, transportation-communications-

utilities, and warehousing follow manufacturing in amount of employment.

Existing industrial firms are mainly the product of a past economic era. Most establishments have occupied their location for a long period of time and now either do not desire to move or currently find it infeasible.

These establishments represent a scale and intensity of operation which contrast with most other Quarter business. Moreover, they are not dependent on the visitors or residents for their market support. These facts, together with evidence of a gradual reduction in wharf space and railroad use in the Quarter, indicate that industrial activities cannot be considered as remaining in the Vieux Carre over the long-range future.

REAL ESTATE TRENDS

The buying and selling of real property provide a good indication of underlying economic conditions. A healthy business climate is reflected in high rents and increased property values. Rents and property values also measure general development pressures, especially those generated by different uses competing for scarce land.

In recent years commercial activities have been displacing residential uses especially in the tourist section of the Vieux Carre. Pressure for commercial expansion, along with increased interest in the Quarter as a residential area, has caused the value of property to increase, and this has been directly reflected in the prices paid in recent transactions.[12]

Since 1935 property values have steadily increased with an especially sharp gain since 1960. During World War II the value of property in the Vieux Carre was driven up by an increased number of shops rented to persons catering to servicemen and defense workers. Very little of the increased value during this period can be attributed to an actual upgrading of properties. Since 1950, however, the impact of New Orleans' tourist and convention business expansion and the growing demand for housing has made property in the Vieux Carre increasingly more valuable. At the present time buildings in good condition on Royal and Bourbon streets sell for $50,000 to $150,000, depending on their location and size.

The tourist area of the Quarter is dominated by commercial activity. Although there is a relative stability of uses in this area, frequent changes occur in occupancy, especially along Bourbon Street. The value of real estate on Chartres Street is rising more rapidly than in the rest of the tourist area where values are generally "leveling off." Very high land values exist along the river end of Canal Street as well. The pressure for conversion of this land from industrial and low intensity commercial uses to high intensity commercial use is increasing. Along Decatur and North Peters streets interest has been shown in converting old warehouses to apartment structures. Property values in the residential portions of the Quarter are also rising. The increase is especially rapid considering the deteriorated condition of many structures. However, values in residential areas are still the lowest in the Vieux Carre. Potentials for rehabilitation in these areas will further increase real estate prices.

Although assessment patterns in the Quarter are not completely consistent with land use patterns, lowest valuations are generally on residential land while higher valuations are on commercial properties. A study of property assessments (conducted by the Bureau of Governmental Research in 1964) found that assessments in 1960 on real property averaged about 25 percent of market value. A review of available data and interviews with persons involved with local real estate indicate that land and improvements in the historic district are generally under assessed. As a result of the state study, Vieux Carre property might be reassessed at higher rates in the future. The implications of higher assessments and increased taxes for Vieux Carre real estate are significant. At present a relationship exists between the relatively low assessment of Quarter property and the predominance of residential uses and small shops. The continuity of these uses has been helped by the current favorable tax situation. If taxes are increased, the pressure to convert property to more intensive commercial and residential uses will be high.

DEVELOPMENT POTENTIALS

As part of an expanding New Orleans metropolitan economy, the Vieux Carre is assured of continuing growth within the limits imposed upon it by development controls and limited land area.

The metropolitan economy is expected to employ 670,000 workers by the year 2000 and support a population of 2.3 million, over double the present number. Housing will be required for 730,000 households, 410,000 more than in 1965. The expansion of central business district offices will continue following the trend

set by the recent construction of the International Trade Mart and Plaza Tower. A total of almost 13 million square feet of floor space will be needed by the year 2000, an increase of over 7 million square feet above the 1965 standing stock. At the same time retail space is expected to double to keep pace with population demands. The tourist business will be drawing upon the 3.7 million persons who are expected to visit the city annually by the year 2000. These visitors will require a supply of 11,800 first-class CBD hotel rooms and twice that number within the city limits.

By 1985 the economy of the Vieux Carre will probably be even more specialized than it is today. The Quarter will have a key future role as a specialty shopping district, a center for arts and crafts, an entertainment complex, an in-town residential area, and one of America's most important tourist attractions.

The development potential for transient accommodations, housing, retailing, office space, and industry in the historic district has been projected in terms of market forecasts for five-year intervals from 1970 to 2000. The actual extent and distribution of development for each use will depend on public decisions relating to the specific type and sale of development permitted within the historic district.

Transient Accommodations: The French Quarter is a nearly ideal location for transient accommodations. It is expected that by 1985 there will be a demand for over 3,300 hotel and motel rooms in the Vieux Carre, as against 1,550 units existing in 1965. By the year 2000, conservative forecasts indicate the demand will reach

4,900 rooms. This demand will be increased by replacement demand as some existing facilities are closed. The market forecast between 1985 and 2000 represents at least 50 percent of the total CBD demand during the period.

TABLE 8. *TRANSIENT ACCOMMODATIONS FORECAST, VIEUX CARRE, 1965-2000*

Year	Rooms	Period Increase
1965	1,550	—
1970	2,475*	925
1975	2,680	205
1980	3,010	330
1985	3,360	350
2000	4,890	1,530
	TOTAL	3,340

* Includes the Bourbon Orleans (241 rooms completed in 1966), Downtowner (186 rooms completed in 1966) and Chateau Louisiane (500 rooms under construction). No further change in inventory through 1970 is assumed.

Source: Hammer, Greene, Siler Associates.

Housing: Housing market forecasts indicate a demand for about 7,100 housing units in the Quarter by 1985 and about 9,400 units by 2000. The market support for the majority of future housing units will come from non-CBD employed workers in contrast to the existing equal contribution of CBD and non-CBD employed persons. The projected increases over the 1965 housing supply of 4,848 units represent only a small proportion of the total number of units expected to be built throughout the metropolitan area.

TABLE 9. *HOUSING MARKET FORECAST, VIEUX CARRE, 1985-2000*

Year	Housing Units	Period Increase
1965	4,848	—
1970	5,325	477
1975	5,870	545
1980	6,460	590
1985	7,120	660
2000	9,365	2,245
	TOTAL	4,517

Source: Hammer, Greene, Siler Associates.

Retailing: Retail needs in the historic district by 1985 will more than double the existing 730,000 square feet

of space. By 2000 the floor space demand is forecast to increase to 2,600,000 square feet. Most of this demand will be in traditional Vieux Carre retail activities.

TABLE 10. *RETAIL SPACE FORECAST, VIEUX CARRE, 1965-2000*
(Thousands of Square Feet)

	Type of Retail Establishment					
Year	GAF*	Other Shoppers Goods**	Restaurants And Bars	Convenience Goods	Total	Period Increase
1965	78.9	298.8	305.0	50.4	733.1	—
1970	99.5	374.0	378.1	60.1	911.7	178.6
1975	122.0	431.4	476.2	66.2	1,095.8	184.1
1980	146.1	487.5	611.2	72.4	1,317.2	221.4
1985	165.0	607.1	736.3	81.0	1,589.4	272.2
2000	268.3	956.9	1,253.5	114.3	2,593.0	1,003.6
					Total	1,859.9

* General Merchandise, Apparel, Furniture

** Antique Shops, Gift Shops, Specialty Shops

Source: Hammer, Greene, Siler Associates

Goals and Policies

This part of the report presents the recommended Plan for the Vieux Carre and a program of action to implement the proposals contained in the Plan. The Plan consists of interrelated long-range intermediate, and short-range components, so that proposals for more immediate action can be understood within the framework of long-range goals for the preservation of the historic district.

Proposed Long-Range Goals

The long-range goals for the Vieux Carre can be stated as follows:

1. Preserve the Vieux Carre as a historic district of national significance.

2. Guide change to insure the historical continuity of the Vieux Carre's environmental unity, its tout ensemble.

3. Improve the quality of the Vieux Carre's environment by eliminating incompatible and undesirable uses and structures, providing needed amenities and services, and strengthening incentives and controls to improve design standards for new construction and for the rehabilitation of existing buildings.

4. Realize the Vieux Carre's physical, social, and economic potential as an important tourist center, a resource for the people of the metropolitan

area, a desirable in-town residential district, a focal area for the arts and crafts, a major shopping and entertainment complex, and a vital part of the city's economic and tax base.

5. Provide needed facilities and services to support and enhance the functioning of the historic district for serving visitors, residents, and workers.

6. Provide facilities to improve traffic circulation, transit service, and automobile storage within the historic district consistent with proper environmental standards.

Proposed Policies

To achieve these long-range goals for the Vieux Carre, a statement of policies is needed to guide everyday decisions by a variety of public agencies concerned with the preservation and improvement of the historic district. Agreement on basic policies can serve to coordinate these daily decisions in terms of long-range goals and assist private individuals in making better investment decisions.

PRESERVATION POLICIES

1. Preservation should encompass both the physical and functional elements of the Vieux Carre that contribute to its identity and environmental unity.

2. Public action should be especially directed at retaining and strengthening the Quarter's diversity and authenticity.

3. The Vieux Carre should be continued as a living, functioning community, not a museum complex.

4. The quality of rehabilitation-restoration work in the Vieux Carre should be improved through positive programs of financial and technical assistance as well as the application of such negative controls as zoning and building regulations.

5. The maintenance and repair of buildings of architectural and historic significance should be assured by public action where necessary.

6. Individual structures should be continued in uses that are compatible with their architectural character.

7. Changes in density resulting from rehabilitation should be carefully controlled.

8. Systematic code enforcement should be carried out within the Quarter to upgrade existing building conditions and prevent demolition by neglect.

DEVELOPMENT POLICIES

1. Development should be channelled to remove obsolete buildings and renew declining subareas within the Quarter, and should be diverted away from the historic core where older structures are concentrated.

2. New buildings should be carefully related to existing structures in terms of height, material, color, form, and site plan and should honestly express present-day requirements.

3. New construction should be consistent in design and location with the existing historic context and architectural setting.

4. Physical development should be planned to delineate more strongly the physical limits of the Vieux Carre with the Mississippi reestablished as the natural physical boundary of the Quarter.

5. The pattern of development within the Vieux Carre and centers of activity adjoining the Quarter, especially the International Trade Mart, the . . .

* * * *

An increasing number of cities in the United States have enacted laws establishing historic districts like the Vieux Carre. The historic district, as a device, is a key tool in the preservation kit.

The provisions of historic district legislation are generally similar to those of the New Orleans' Vieux Carre Ordinance, passed in 1937. A geographic area containing a concentration of historic structures is specifically defined and a Historic District Commission similar to the Vieux Carre Commission is established to review all permit applications for new con-

struction, reconstruction, alteration, removal, or demolition of buildings within the historic district. In short, regulatory objectives can be stated as follows:

> *Historic district architectural controls aim at preserving appearance without change in ownership or use; where the setting is important as well as the buildings, or the relationship to each other of a sufficient number of historic buildings creates a whole that is greater than the sum of its parts . . .*

External architectural features are subject to review by the Vieux Carre Commission, considering such factors as "the appearance, color, texture of materials and architectural design of the exterior." Unlike New Orleans, however, many cities incorporate architectural control provisions directly within the city's existing zoning ordinance.

While New Orleans passed the first ordinance for preserving a historic district in 1924, it was never enforced. Charleston, South Carolina, is considered the first city in the nation to enforce such an ordinance (enacted in 1931). More recently, Providence, Rhode Island, adopted a historic preservation ordinance based on the work of the College Hill Demonstration Grant Study completed in 1959. Other cities with historic district laws include Albuquèrque, New Mexico; Alexandria, Virginia; Annapolis, Maryland; Boston, Massachusetts; Columbia, South Carolina; Dover, Delaware; Lexington, Kentucky; Mobile, Alabama; Portland, Oregon; Richmond, Virginia; Sacramento, California; San Antonio, Texas; Santa

Barbara, California; Santa Fe, New Mexico; Schenectady, New York; Springfield, Illinois; Williamsburg, Virginia; Winston-Salem, North Carolina; and Washington, D.C.

Preservation: Purposes and Problems

The purpose for creating a historic district may be bricks-and-mortar — to preserve architecture — or dollars-and-cents — to increase a historic district's tourist appeal — but primarily preservation should be thought of as having a flesh-and-blood social purpose, to enrich and give meaning to the daily life of the people of a community.

Americans have been called a future-oriented people. But our search for the new, propelled by science and technology, is increasingly pervaded by doubts about many of the results of that search. The environment of our cities appears more stereotyped and monotonous as everyday life becomes more mechanized. Historic preservation is certainly relevant to the needs of a future-oriented society, as is any effort that can increase the interest and diversity of the cityscape and add to our pleasure and understanding.

As a nation we have been frequently careless with our considerable architectural, artistic, and historic heritage. Four main reasons have been suggested for this:

1. *Insufficient awareness of the importance of this heritage — especially by those in decision-making positions.*

2. *The difficulty of identifying the valuable things and the absence of criteria for determining their relative importance.*

3. *Present design approaches and methods which do not take the trouble to retain important elements, and generally do not provide motivation to do so.*

4. *The lack of a method for considering the value of excluding forms to local people, and of mechanisms for making policy decisions about them on the local level.*

A systematic approach and method of analysis is clearly needed for undertaking preservation planning in any historic district.

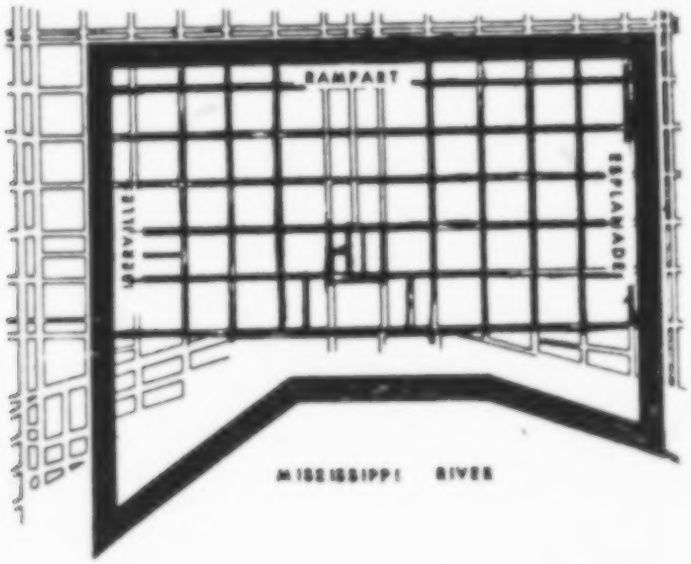


Figure 2: Legal boundary of the Vieux Carre

Vieux Carre Approach and Method

It has been widely recognized that the genius of the Vieux Carre is to be found in its environmental unity and that preservation efforts should be directed at the sum total effect, buildings plus environment.

The Supreme Court of Louisiana adopted the important "tout ensemble" rule in holding that the Vieux Carre Ordinance applied to all structures in the historic district irrespective of an individual building's own historic or architectural value:

> *And there is nothing arbitrary or discriminating in forbidding the proprietor of a modern building, as well as the proprietor of one of the ancient landmarks, in the Vieux Carre to display an unusually large sign upon his premises. The purpose of the ordinance is not only to preserve the old buildings themselves, but to preserve the antiquity of the whole French and Spanish quarter, the tout ensemble, so to speak, by defending the relic against iconoclasm or vandalism. Preventing or prohibiting eyesores in such a locality is within the police power and within the scope of this municipal ordinance. The preservation of the Vieux Carre as it was originally is a benefit to the inhabitants of New Orleans generally, not only for the sentimental value of this show place but for its commercial value as well, because it attracts tourists and conventions to the city, and is in fact a justification for the slogan, America's most interesting City.*

Thus, the court provided legal sanction for undertaking preservation in the Vieux Carre so as to maintain the historic district's environmental unity against harmful change. The whole has been clearly recognized as greater than the sum of its parts.

The identity of the Quarter is synonymous with this concept of the tout ensemble. The police power is authorized to protect those elements of the whole that contribute to the area's physical identity and to prohibit elements that are deleterious. Since land uses are already subject to police power regulation under zoning, functional (land use) components must also be incorporated in an operational definition of the tout ensemble. Such a definition is needed in making everyday decisions about the conservation, improvement, or replacement of individual buildings and uses within the historic district.

Though harmful change must be avoided, the necessity of change, even in a historic district, should be understood and accepted. Change acts on the tout ensemble in a multitude of ways, subtle and otherwise, and the product of this interaction over time may or may not create historical continuity. Public action in the Vieux Carre can be viewed as an attempt to guide change in order to preserve the tout ensemble by insuring that its historical continuity is not broken.

The Vieux Carre is the present product of this kind of interaction extending over two and a half centuries. Architecturally, no single style predominates. Rather the Quarter is a kaleidoscope of styles and periods expressing its highly diverse cultural evolution. The

Quarter's evolution is reflected, as well, in its mix of activities and social groups.

In order to reconcile preservation values with the requirements for necessary and compatible change an accommodation must be made between the two. The following discussion outlines the approach and method used in this study for defining the components of the Vieux Carre's tout ensemble, dimensioning the parameters of change, and, finally, formulating a means to promote through historical continuity an orderly and effective adjustment between them.

Components of the Tout Ensemble

The physical and functional components of the tout ensemble can be defined as follows:

PHYSICAL COMPONENTS:
They include both man-made elements and natural features:

- Single man-made objects including buildings, street furniture (street lights, hitching posts, etc.) and other artifacts.

- Combinations of architectural features including street facades, other groups and masses of structures, and boundary forms (levees, embankments, etc.)

- Open spaces (squares, courtyards, etc.) and landscape features together with the natural features of topography and water.

- Landmarks and other points of visual dominance, viewpoints, and vistas.

These above components contribute mainly to the visual quality of the tout ensemble. In addition, another set of physical elements in the environment that evoke mental associations when encountered should be added. As Jacobs and Jones have written, "*The power of various objects contained in the city to call to mind both past and present associations is to a large extent responsible for our image of the city.*" This set of components includes:

- **Historic** places associated with past events or important personalities and groups and physical elements having present associations — points of social activity (institutions, churches, museums, etc.) — that do not at this time necessarily have historic significance.

A final set of tout ensemble components can also be identified:

- Buildings of architectural and historic significance.

Field surveys were conducted as part of the Demonstration Study to inventory each of these specific physical components of the tout ensemble.

FUNCTIONAL COMPONENTS:
The land use of each parcel of property in the Quarter was also recorded by field survey. Information was mapped to analyze separately ground-level use and

the predominant use of each parcel. Information was supplied by the City Planning Commission for three widely separated years — 1929, 1949, and 1965. The use of nonresidential floor space was also tabulated for 1965. Characteristic, long-term land use patterns such as the "fine-grained" intermixture of activities — particularly the mixture of commercial and residential uses — were examined in this manner.

The use of each building in the Quarter was then studied to determine its compatibility with its environmental surroundings. Incompatible functions were thereby defined on an individual parcel basis. In this way the functional components of the tout ensemble were evaluated.

Parameters of Change

A range of studies concerned with physical, social, and economic conditions, transportation, and development potentials was completed to determine the broad parameters of change affecting the Vieux Carre.

Studies were supplemented by interviews with leaders representing various public and private interest groups concerned with the future of the Quarter. Next, the results of this research were analyzed to determine the relative importance of various forms of change either currently operating or expected to influence the Vieux Carre's physical, social, and economic character during the next several decades.

Pressures for change were found to have both internal and external origins. The more important factors gen-

erating recent change show strong evidence of affecting the tout ensemble for a considerable future period. The chief factors identified were 1) the continued growth of tourism in the Quarter, 2) the area's increasing popularity for upper-income housing, 3) the mounting requirements of the automobile, and 4) the expansion needs of the adjoining Central Business District.

It was also concluded that change can be expected as a result of future public and private efforts to eliminate uses and structures that add little or nothing to the Quarter's identity or are actually harmful to the tout ensemble. The elimination of an undesirable use or structure, in effect, "kills two birds with one stone" by ridding the Quarter of a nuisance and, at the same time, yielding space for needed new facilities.

The type, amount, and locational pattern of expected change were investigated block by block. Physical change in a built-up area like the Vieux Carre takes place through either new construction, rehabilitation and restoration of existing buildings, or their deterioration and demolition. New construction includes, as well as buildings, various kinds of public improvements, such as streets and expressways.

Recent economic and social change in the Quarter has resulted in changing patterns of land use, the economic and functional obsolescence of certain activities, and shifts in the type and location of population groups. In a number of instances the uncontrolled extension of current trends presents serious, long-range consequences to the Vieux Carre.

Preservation planning must be concerned with the quality as well as type and quantity of change. Authenticity, above all, distinguishes a genuine historic district from a "true-to-life" simulation. Because they are subtler, ersatz restorations and pseudo-historic reconstruction pose, perhaps, the most critical threat to the preservation of an area like the Vieux Carre. The catalogue of recent change in the Vieux Carre includes many examples of such insensitive "improvements" made in the name of history.

Guiding Historical Continuity

In every historic district decisions about change must be based on some conception of history and historical continuity. The approach applied in the Vieux Carre regards history as a continuous and irreversible process. All events are interconnected: The past creates the present which, in turn, shapes the future. Because contemporary identity can best be understood as the product of historical continuity, the purpose of preservation planning can be viewed as channelling change to assure the extension of a past continuity into the future.

* * * *

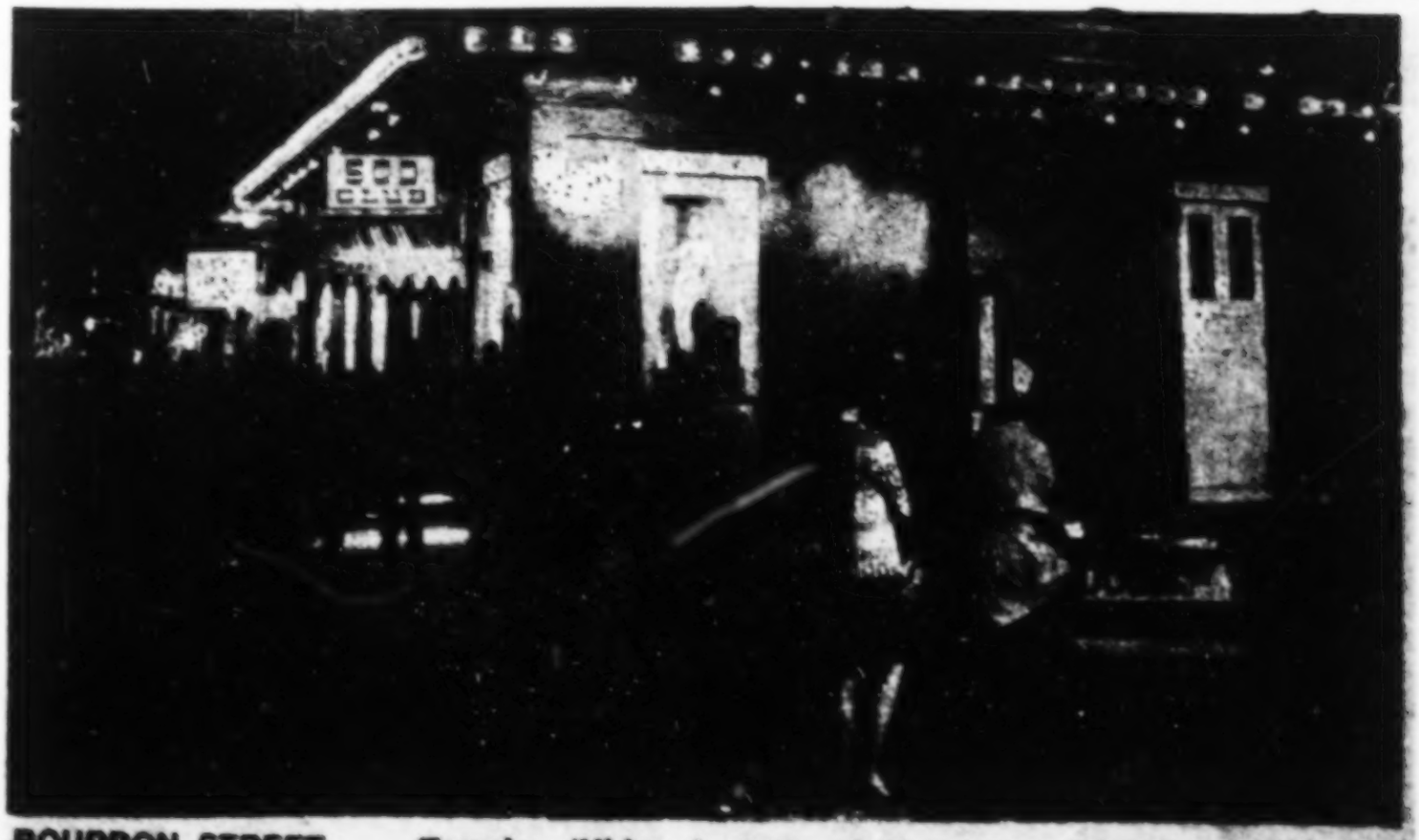
BOURBON STREET BEAT

Live entertainment like this may be seen nightly on world famous Bourbon Street in the Historic Old French Quarter of New Orleans.

BOURBON STREET — NEW ORLEANS

Looking down the famous Bourbon Street where tourists go slumming to see gay, daring and risque entertainment and to listen to the music in the home of Dixieland Jazz.

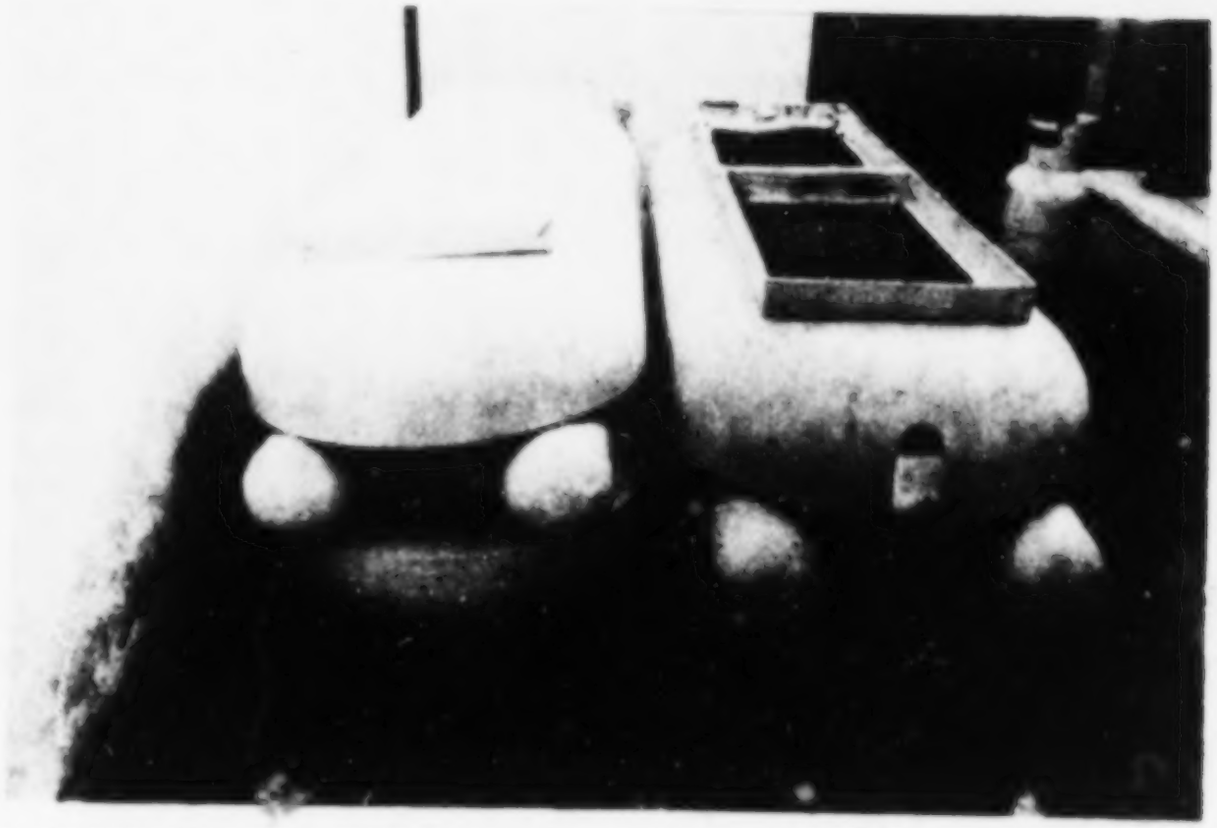
66



BOURBON STREET . . . Teeming 'Midway' of New Orleans' Vieux Carre and birthplace of the jazz revival.

Carnival Eats: A Guide To Cheap Food

67



Lucky Dog pushcarts, waiting to be painted. Strange.

Photo by D. Eric Bookhardt

Cheap restaurants are a liability — especially for those who haven't been in town long — because few of them have reputations that precede them, and so there's no way to get the poop on whether they're merely cheap or cheap *and* good.

The restaurants below represent a wide cross-section of what is both fairly priced and good to eat, and all within a fairly wide geographical range. These places serve a few items no tourist (or self-respecting local) should deny themselves — Lucullan delights like the Hummingbird's red beans and rice, Huerstel's stuffed artichokes, Sidney's potato salad and stuffed crab, Uglesich's trout plate. Read on about where to find them:

Acy's Pool Hall — 1925 Sophie Wright Place, 523-8265. Acy's is an Irish Channel-Coliseum Square favorite (great '40's jukebox speakers with musical notes jumping around on them, a massive dark-stain bar, cavernous, classic pool-hall space); it has sandwiches only. The roastbeef sandwich is famous and ample, but not up to some others around town. Many people like Acy's muffuletta, which is served hot (an infuriation to muffuletta purists) and, to our tastes, scrimps on the olive salad. The piece de resistance is the meat-ball po-boy, which is delicious; wash it down with a Red Drink.

Buster Holmes — 721 Burgundy, 523-8402. Another tradition — at least with street-people; around Mardi Gras, Buster's is inundated by spare-changers, and their presence can make a meal there a teeth-grinder. In the front room, there's a bar and a few tables; in the

kitchen, a counter from which you can peep over your backbone or smoke sausage and watch the help have their spats and bouts and collisions; Leonora Carrington also advises us that Buster's has the best-looking dish-washer in the city; not as cheap as you might expect, you can usually get tanked up at Buster's for under two dollars. Buster is renowned for its red beans, the sausages hot and smoked, shrimp stew, potato salad, roast beef, and delectable fried oysters.

Casamento's Restaurant — 4330 Magazine Street, 895-9761. Sparkling tile covers the floor and walls here (reason is allegedly, according to rumor, because the senior Mr. Casamento is a microphobe); the specialty is seafood, reasonably but not cheaply priced; the frying is miraculously light (a plate of nine spectacular fried shrimp for $3, the huge oyster loaf on hot pan-bread, soft-shell crabs — when they have them — that are wonders), the raw oysters and oyster stew are terrific, and they have bottled beer. Long lines at lunch and on Friday nights.

The Deli — 1534 Melpomene, 522-5751. A hole in the wall, sort of, very close to parade routes. Great pizza with thick crust running about $2.50 or $3 for a small one; also excellent delicatessen meats — the jumbo salami sandwich ($1.85) is one of the best of the bunch.

Dagwood's Po-Boy Sandwich Shop — 4641 South Carrollton, 488-9111. A good place to snack while you're waiting for the Krewe of Mid-City to get going (provided you go to Mid-City to see it); good, ample sandwiches, about a dollar and a half apiece, cooked in microwave ovens. One of the best is the Elmer Special (knockwurst, Swiss cheese, sauerkraut; $1.55) — all

the sandwiches here are named after characters in the late Chic Young's comic strip — but alas! there's still no Cora ("Julius, you worm!") Dithers po-boy.

Fun's Chop Suey — 609 Decatur, 525-1648. The place to eat at 4 or 5 a.m. in the French Quarter; Fun's (ex-Fong's, a flash of those halcyon days when La Casa was still next door) has an extensive menu (prices running from about two dollars for various fried rices up to $3.00 for abalone and vegetables) and a somewhat ghoulish clientele. Especially good are the simple things: yet-ca-mein (or ya-ca-mein), a combination of noodles or spaghetti, hard-boiled eggs, shallots and finely chopped meat — a great cure for hangover, must be doused liberally with hot sauce, Worcestershire sauce, pepper. Also abalone soup, fried rices, shrimp and vegetables, beef with broccoli.

Huerstel's Restaurant and Bar — 3708 St. Claude Avenue, 947-9127. Huerstel's is an old Ninth Ward tradition, and one of the half-dozen most comfortable places in town to eat. The coldest beer in town is only a quarter or so for a big iced glass, the gumbo and stuffed artichokes are great — a familiar sight is Mrs. Huerstel herself sitting at one of the tables working over a score of artichokes — and Huerstel's uses real veal cutlets and real hamburger. The cutlets are quite fine, so is the homemade potato salad. Prices range from two to two and a half dollars a plate.

The Hummingbird Restaurant — 804 St. Charles Avenue, 523-8178. The Hummingbird, located in the steppes of the wino district, is a delightfully seedy place, open all night, with extremely good cheap food. For our money, their red beans and rice — about a dollar thirty-five — are as good as anybody's; the chili

and breakfasts are also highly recommended. If you find yourself hungry at 5 a.m. and don't feel like Chinese food, this is The Place. In spite of the fact that some of the patrons need a bath, a shave, a complete overhaul or reclamation, the service is almost courtly and the atmosphere bustlingly pleasant.

Maxcy's Coffee Pot Restaurant — 714 St. Peter, 523-8215. The walls are loaded with inscribed pictures of movie stars; the menu is loaded with goodies; one of the best is the Salad Jayne, which is terrific for $2.50 — a good light lunch or dinner. As befits its name, Maxcy's also has good coffee by the pot or cup, and daily luncheon specials, which are rarely losers, and run around $2 or more. The red bean omelet is recommended among other things.

Sidney's Restaurant — 1429 St. Peter Street, 523-8627. One of the top eating bargains in town — a $1.25 dinner which might include good red beans and rice, terrific veal stew or potato salad, fresh collard or mustard greens, the hottest stuffed crab in town, and excellent roast beef, or smothered veal or pork chops. Sidney's is also open quite late on weekends.

Toney's Spaghetti Tavern — 212 Bourbon, 523-9261. Toney's, like Maxcy's, has walls covered with inscribed photos and mirrors with daily specials chalked up on them. Toney's is so good, so cheap and so accessible that it's usually mobbed, but the service is snappy. Lots of good seafood and sensibly priced Italian specialties — when you ask for a veal cutlet here, as at Huerstel's, you get real veal. Also, before 10 a.m., the best biscuits in town. One of the few places in

town where you can order a stuffed artichoke and specify whether you want it hot or cold; dress codes go into operation around Mardi Gras time.

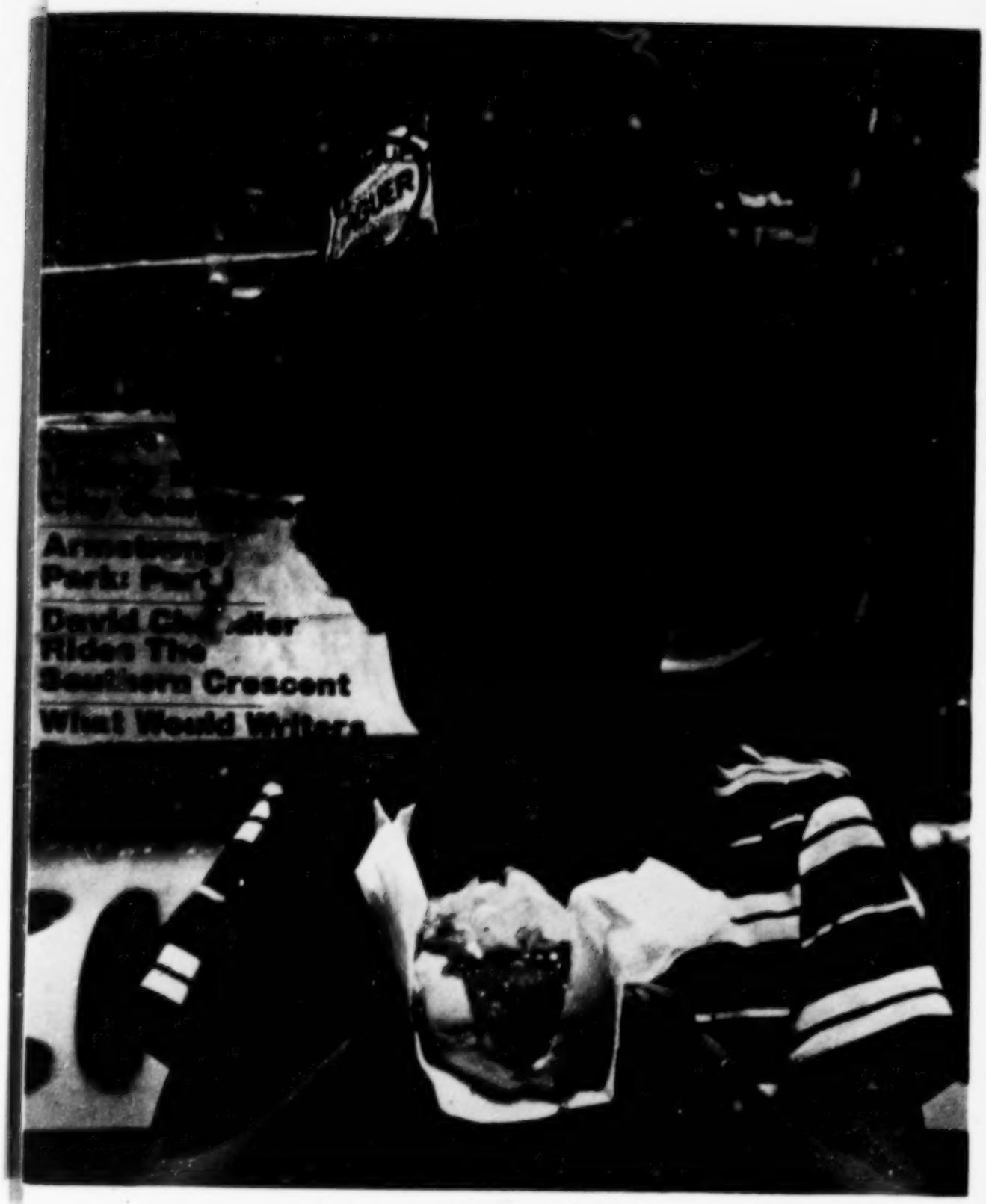
Uglesich's Restaurant and Bar — 1238 Baronne, 523-8571. Terrific seafood — divine oysters (90 cents will buy you a half-dozen raw, a good light lunch), good thirty cent cold beer, fine french fries, fried trout plates (a huge one costs $2.65), good hot sausage sandwiches ($1.55), roast beef, shrimp loaves. Find old-time ambience, and a big hangout for the Brown's Velvet Dairy workers from across the street. Also near the St. Charles parade routes.

Junk Food

There's junk food all over for Mardi Gras. Polish sausages, cotton candy, pop corn, and all that. And, of course, there are those pocket establishments along Bourbon Street that serve junk food all year round. They're fine if you just want something to chew besides the fat as you promenade along the strip.

Archie McConnell's, at 610 Bourbon, is probably the best of these and is open all night. It is positively gaudy compared to the hole-in-the-wall ambience you can expect other places.

Street vendors aren't quite as trustworthy for quality purposes (although discussing the quality of such food is laughable in itself) with the exception of the *Lucky Dog* men. A Lucky Dog at 65 cents (especially good with plenty of onions) is infinitely superior to the vastly more expensive foot-long hot dogs.



INSIDE METRO — NEW ORLEANS — JULY, 1974
(Table of Contents omitted, except for Cover notation printed below)
ON THE COVER: Hot Dog! Summer in the City! Kael Hanks is about to take a bite out of a Lucky Dog, one of the small delights offered to vacationers spending July at home. The photo was made by Kael's father, Wade Hanks, & Avery Crounse.

THE STATES ITEM
SEPTEMBER 27, 1974
FRIDAY
NEW ORLEANS, LOUISIANA

ARTICLE IN RE OF: NANCY DUKES v. CITY OF NEW ORLEANS, et al

Vol. 98—No. 94 Friday, September 27, 1974

Hot dog vendors won't relish ruling

A federal appeals court here today ruled the city cannot favor "a venerable hot dog dealer with the skins of . eight seasons over franks of more recent vintage."

Or, in other words, the U.S. 5th Circuit Court of Appeals held that the grandfather clause of an ordinance which restricts the sale of ho dogs in the French Quarter to vendors of more than eight years experience prior to Jan. 1, 1972, discriminates against vendors of less experience.

Nancy Dukes, who does business as Louisiana Concessions, brought suit against the city and mayor after the council adopted the ordinance, which in effect, limited the sale of hot dogs in the Vieux Carre to Lucky Dogs Inc.

She contended the clause violated her constitutional rights under the 14th Amendment, but U.S. Dist. Judge Jack M. Gordon didn't see it that way and ruled against her. Today the appeals court reversed that decision and sent the question back to Gordon.

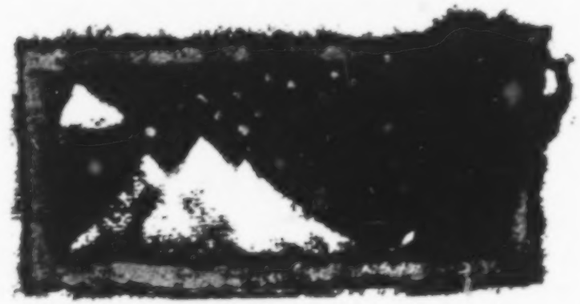
"While we are sympathetic to New Orleans' efforts to conserve the traditional complexion of the Vieux Carre and sensitive to the difficulty of consistently aligning tradition with purely reasonable distinctions, we nevertheless find the Council's rationale insufficient to support the discrimination imposed," the court's ruling said.

The court said there was no suggestion that eight years experience in the pushcart hot dog business is necessary or helpful to better hot dog salesmanship or that it instills in the vendors the kind of appreciation for the conservation of the Quarter's tradition that would move them to refine their methods of operation.

The court emphasized that the ruling does not bar the city from further legitimate attempts to conserve the Vieux Carre's unique resources, such as strict regulation of the location and the appearance of the pushcarts.

Quarter hot dogs good for one . . . and all

Epicurean Specialties of the Vieux Carre



ILLUSTRATED BY MIRIAM SCHOTTLAND

Gumbo:
A savory soup brought from African jungles. Gumbo zhebes is created from carefully washed, fresh greens and thickened with okra. Ingredients include collard, carrots, radishes, escarole, lettuce, onions, spinach, watercress, beet tops, mustard, diced ham and veal, and herbs such as tarragon, chives, dill, allspice, bay leaves, thyme, sage and marjoram. Try this at the elegant Dunbar Restaurant.

Oysters Bienville:
Created about 1930 by French Count Arnaud Cazenave, who had established Arnaud's Restaurant on Bienville Street in 1920, this delicious dish has gathered a legion of faithful followers. The oysters are prepared in the same manner as in Oysters Rockefeller but the sauce is what makes the difference. Browned butter and minced onions are combined with chicken consommé, white wine, cooked shrimp, raw mushrooms and thickened with egg yolks and cream.

Cafe Brulot:
A flaming coffee, usually a festive drink ceremoniously served after dinner. Prepared in a bowl, it contains cloves, sugar, lemon or orange peel, cinnamon and flaming brandy. Hot coffee is poured into the flames and then served with appropriate flourish.

Pigeonneau Sauce Paradis:
On a bed of minced celery, carrots and onions enlivened by Madeira and red wine, a delicately browned squab is served with white grapes and ebony truffles. This delightful dish is a creation of Roy Alciatore.

Beignet:
A feather-light square doughnut or fritter, with or without powdered sugar and without a hole. Usually served with café au lait.

Cafe au Lait:
Strong French coffee mixed with chicory and poured into a cup simultaneously with hot milk.

Oysters Rockefeller:
This superb concoction, an innovation of Jules Alciatore, is undoubtedly Antoine's most famous dish. The succulent oysters are placed in their own deep half shells, baked for six minutes on a bed of rock salt, swathed in a rich butter sauce that includes parsley, onions, spinach, shallots, anise liquid (replaces the outlawed absinthe), thyme, garlic and anchovy paste, and then returned to the oven for an additional five minutes.

Absinthe Suissesse:
More than a hundred years ago this foaming, lime-colored drink was the rage of the South. It has again returned but the outlawed absinthe has been replaced by Herbsaint. Egg whites are combined with cream, anisette, orange-flower water and syrup. The entire brew is vigorously shaken with ice and served in a frosted glass.

Eggs Benedict:
A universal dish but in New Orleans it is something special. Brennan's Restaurant, where breakfast is served from 9 a.m. to midnight, has improved upon the original. Eggs Hussarde are unforgettable. Whereas Eggs Benedict are comprised of English muffins covered with broiled ham capped with a poached egg and covered with hollandaise sauce, Eggs Hussarde add tomato slices and unparalleled Marchande de Vin sauce served on Holland rusk and topped with a lavish serving of Brennan's own rich, yellow hollandaise sauce. Unbelievably delicious.

Hot Dogs:
Hot dogs amidst all this superb cuisine? Yes. For some reason the Vieux Carré hot dog peddler holds a strange fascination, particularly at around midnight. He serves his steaming juicy hot dog on a fresh bun and smothers it with mustard, ketchup, relish and onion. A wonderful way to end the day or to give one strength for the reveling ahead.

Red Beans and Rice:
Traditionally a Monday meal, this simple, tasty dish is a favorite, especially at the small walk-in restaurants, as are po-boy and muffullatta sandwiches.

Saturday, April 19, 1975 The States-Item
New Orleans Page 21

MOVIES

AMARCORD: INSIDE FELLINI'S DREAMLIKE WORLD

THE LAST MICK IN THE CHANNEL, directed and written by Dalt Wonk. With Josephine Sacabo, Dan Dial, Mark Williams and John Craemer.

Last weekend, a locally produced video tape, "The Last Mick In The Channel," written and directed by Dalt Wonk, was screened at the Photo Exchange Gallery. The equipment was primitive -- one of those miniscule Sony televisions that reduced the credits to fine print and unsophisticated audio equipment — but the product itself was by no means amateurish. If the community supports Wonk's project, you'll be able to see it for yourself on TV.

A freelance journalist who has written and performed plays in New York and London, Wonk got the idea for the scenario when he overheard some gossip about a Lucky Dog vendor at a sandwich shop on Bourbon Street. The finished script is about a hot dog dealer (Dan Dial), who after twelve years of loyal service to Lucky Dog (with no pension plans, profit sharing or vacation time), slithers away with ninety dollars. He winds up in the men's department of Maison Blanche, buying a suit to impress his grandchild, who thinks he's a retired Marine Corps captain instead of a street peddler prone to hitting the sauce.

The script involves the interactions of Sal, the owner of the business (Mark Williams); his wife,

Angie (Josephine Sacabo, in an extremely sensitive performance as a young woman with marital troubles), and Sal Sr., a bitter old man dying in the hospital and founder of Lucky Dog (John Craemer).

The cast members, with the exception of Dan Dial, have all had extensive acting experience. Dial, a retired draftsman-turned-Quarter Character who ran for mayor in 1969, does amazingly well. Dalt Wonk met Dial while working as an extra in "Mandingo," and decided he had a superfluous supply of character-color to make up for his inexperience.

The force of fine direction, acting and meticulously planned camera angles (by Julia Nead, Abby Terkuhle and Judy Cooper) make the production kind of like a local version of Frank Capra's "Pocketful of Miracles" — with more emphasis on emotions, motivations and local color, and less on tear-jerking.

There's only one irritating fact about the film — I only got to see roughly twenty minutes of it, since the entire script hasn't been filmed yet. Wonk desperately needs financial support before he can complete the project. So far, local organizations have been extremely cooperative in loaning him equipment and facilities — Ochsner Foundation Hospital and Lucky Dog, just to name a couple, and both Channels 12 and 26 are more than eager to air "Last Mick in the Channel" upon its completion.

Anyone who can be of assistance should call 523-1067 — the city is indeed fortunate to have such an ambitious group of new filmmakers, and to allow their efforts to be stalemated in the idea stage would surely be criminal negligence.